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TREASURY FOR HOLMER/SMITH/WRIGHT/HUANG
TRANSPORTATION FOR MCDERMOTT/SZABAT/ALLEN/PORTER
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TAGS: [ETRD](#) [ELTN](#) [EINV](#) [EAIR](#) [CH](#)
SUBJECT: USTR MEETING WITH STATE COUNCIL LEGISLATIVE
AFFAIRS OFFICE ON DRAFT POSTAL LAW

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11. (SBU) SUMMARY: USTR officials Claire Reade and Tim Stratford discussed China's draft Postal Law with State Council Legislative Affairs Office Director General Zhao Xiaoguang on September 2. Zhao acknowledged that the current draft still restricts the rights of foreign companies to engage in domestic express document delivery, which he said is consistent with China's WTO commitments. Zhao said China welcomes foreign express delivery companies, but that the SC/LAO is under pressure to protect domestic companies. Reade noted that the USG understands that companies other than China's postal monopoly did engage in domestic express document delivery prior to China's WTO accession, in which case, the principle of national treatment would obligate China to extend these rights to foreign companies. She offered to provide SC/LAO with examples of private or joint-venture companies involved in domestic express document delivery at the time of China's WTO accession. Reade and Stratford stressed the benefits to China's economy of fully opening the express delivery market to competition, and urged SC/LAO to consider the interests of consumers and the Chinese economy overall, not just the interests of some companies. END SUMMARY.

12. (SBU) USTR Chief Counsel for China Trade Enforcement, Claire Reade and AUSTR Tim Stratford met with State Council Legislative Affairs Office (SC/LAO) Director General Zhao Xiaoguang on September 2 to discuss China's draft Postal Law and its possible effect on United States express delivery companies operating in China. Present from the Embassy were Econmincouns, USTR Senior Trade Representative, USDOC Special Counsel, Commercial Officer, and Econoff. USDOC International Trade Specialist Janice Wingo also attended.

13. (SBU) Reade stressed the importance of openness and competition to China's economic development, and noted the important role played by United States express delivery companies in China's development, including by improving communications between Central and Western China and the coastal regions.

14. (SBU) Reade asked whether the USG could see a copy of the current version of the draft Postal Law, and whether it

still contains provisions that would restrict foreign companies from engaging in domestic express document delivery. Zhao said the draft Law is still under revision in the SC/LAO. He said it would be difficult to share the draft or make it public, but that the SC/LAO is willing to hear the opinions of interested parties, such as United States express delivery companies, and take them into account. He said he has talked to Fedex, UPS and TNT several times. Zhao acknowledged that the draft Law still contains the restrictive provisions. He said the draft Law would not impose new restrictions on foreign express delivery companies, and that China welcomes U.S. companies in the express delivery business and intends to allow them an (unspecified) "slightly" greater role under the revised postal Law. Zhao said China may grant authority to foreign express delivery firms to deliver documents domestically (e.g. from Changchun to Beijing) en route to an overseas location. He said the draft Law is consistent with China's WTO commitments, which contains a carve-out for activities restricted to China's state postal monopoly, China Post.

15. (SBU) Reade said companies that cannot deliver both documents and packages would be at a significant disadvantage in the China market. On WTO commitments, Reade acknowledged that China has a GATS carve-out for activities reserved for China Post as of December 2001, but said it is not clear that such a monopoly really extended to domestic express document delivery. She said the USG understands that companies other than China Post did engage in domestic express document delivery prior to China's WTO accession, and that if this is the case, China must treat

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foreign and domestic companies equally. Zhao said he was aware of foreign companies engaging in express delivery of documents on international routes, operating under entrustment certificates, but was unaware of any licenses issued to foreign or domestic firms to engage in domestic express document delivery in competition with China Post. Reade offered to provide SC/LAO with examples of private or joint-venture companies that competed with China Post in domestic express document delivery at the time of China's WTO accession, and Zhao agreed to receive them.

16. (SBU) Zhao said that China does value openness and competition, and recognizes the contribution of United States companies. He claimed that American express delivery companies tell him they are satisfied with the legal and business environment in China. Zhao went on to discuss the government's need to protect the local rights of "customers" and described China's express delivery industry as backward. He noted that after restricting foreign competition in some sectors, e.g. tourism, giving domestic industry a chance to develop, China was able to eliminate market access restrictions that were permitted under China's WTO services offer. Zhao said the SC/LAO is under pressure from domestic companies regarding the Postal Law.

17. (SBU) Stratford urged Zhao to consider two points: first, that placing market access restrictions directly in the Postal Law will make it very difficult for China to remove these restrictions if it wishes to liberalize in the future. Second, Stratford noted that while governments must take the interests of domestic companies into account, they must also realize that the interests of specific companies do not always coincide with the interests of their countries or the overall economy. Reade added that consumers tend not to comment on draft legislation, so responsibility for this falls to government.

18. (SBU) Stratford took the opportunity to invite SC/LAO to participate in the 9/18-19 Postal and Express Delivery Symposium in which the State Postal Bureau will participate. Zhao said one Deputy Director General from the SC/LAO will

participate, and said the SC/LAO welcomes this opportunity.

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